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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,805	12/14/2001	Jean Guy Chauvin	08887820US	1648

7590 09/17/2003

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CANADA

EXAMINER

SONG, SARAH U

ART UNIT	PAPER NUMBER
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2874

DATE MAILED: 09/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/014,805

Applicant(s)

CHAUVIN ET AL.

Examiner

Sarah Song

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☒ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Priority*

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Canada on December 20, 2000. It is noted, however, that applicant has not filed a certified copy of the 2,329,098 application as required by 35 U.S.C. 119(b).

### *Drawings*

2. This application has been filed with three (3) sheets of drawings, which have been approved by the Examiner.

### *Specification*

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet **within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited.** The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### *Claim Objections*

4. Claims 1, 6, 10 and 12 are objected to because of the following informalities: in line 5 of claim 1, change "used" to --use--; in line 3, of claim 6, change "a" first occurrence to --an optical— and in line 9 of the claim, insert --optical—before "cable" to provide proper antecedent basis for "said optical cable" in claims 7 and 9; in claim 10,

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line 1, change “is” to –are—; in line 2 of claim 10, Examiner suggests deletion of “, such as bit-rate and protocol,” since it is positively recited in claim 11 (the phrase “such as” renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention; see MPEP § 2173.05(d)); in line 3 of claim 10, Examiner suggest inserting –optical—before “cable”; in claim 12, line 1, change “is” to –are—, change “entry” to –entry; —and in line 6, delete “bundle” to eliminate the lack of antecedent basis. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1-3 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Admission (Figure 1 of specification) in view of Shiragaki et al. (*Optical Cross-Connect System Incorporated with Newly Developed Operation and Management System*).** Admission discloses a multi-service platform 100 connected to a cross-connect 110 by optical cables 120. Admission does not specifically disclose provisioning data paths or means for signaling source/destination identities to an OAM&P subsystem.

7. Shiragaki et al. discloses a system comprising a cross connect node connected to a second cross connect node, with a number of optical fibers connecting the first node to the second node. The number of optical fibers are assigned for the transmission of data and at least one of said optical fibers is assigned for use as a provisioning data path. In fact, each of said optical fibers is assigned for use as a provisioning data path. The

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provisioning data paths are provided as an additional “colour” on a fiber used for the transmission of data. Shiragaki et al. further discloses an OAM&P subsystem connected to said provisioning data path at said cross connect, a means Tx to signal a source identity to said OAM&P over said provisioning data path, and a means Rx to signal a destination identity to said OAM&P subsystem from said cross connect. See Figure 5.

8. Both disclosures relate to optical cross connect systems and network management. Therefore, it would have been obvious to one having ordinary skill in the art to incorporate the provisioning system of Shiragaki et al. into the system of Admission. One of ordinary skill in the art would have been motivated to provide the provisioning system of Shiragaki et al. in the system of Admission to provide information regarding the connection end points of the optical fibers for a reconfigurable and restorable cross connect system as taught by Shiragaki et al. The method of claim 6 would have been obvious for setting forth steps that are necessarily performed within the device as discussed above.

9. Regarding claims 2 and 7, there exists plural provisioning data paths, each path provided in an optical fiber, and therefore meet the limitation for the path being provided as an additional optical fiber.

10. **Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Admission in view of Shiragaki et al. as applied to claim 1 or 6 as applicable above, and further in view of Ohlhaber et al. (U.S. Patent 4,695,127).** Neither Admission nor Shiragaki et al. disclose providing the provisioning data path as an electrical circuit within said optical cable. Optical cables and fibers comprising electrical circuits for verifying connection of the optical cables or fibers are well known in the art

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as disclosed by Ohlhaber et al. One of ordinary skill in the art would have found it obvious to provide the provisioning data path as an electrical circuit to simplify the components of the system by eliminating the need for the O/E and E/O converters.

11. **Claims 5, 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Admission in view of Shiragaki et al. as applied to claim 1 or 6 as applicable above, and further in view of Wang et al. (U.S. Patent Application Publication 2002/0041413).** Shiragaki et al. discloses physical provisioning data paths provided on a reserved wavelength channel of the optical fibers. Logical provisioning data paths are not specifically disclosed by Admission nor Shiragaki et al. Wang et al. discloses logical provisioning that is provided on reserved wavelength channels of an optical fiber and a means 10A-14A for providing protocol information. It would have been obvious to additionally provide the means for logical provisioning as taught by Wang et al. to provide protocol information to the cross connect system of Shiragaki et al. It would have been obvious to provide the protocol information over the same provisioning data path of Shiragaki et al. since the provisioning data path is already provided therefor. Furthermore, it would have been obvious to ensure that the connection exists before providing the protocol data since it would have been known that the protocol data would have been ineffective without the physical connection.

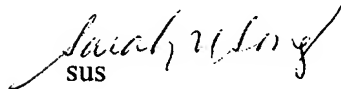
### ***Conclusion***

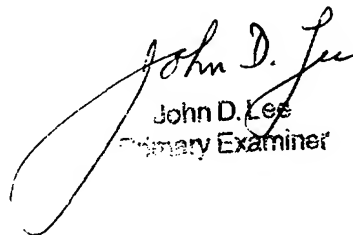
12. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under

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37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

13. Any inquiry concerning the merits of this communication should be directed to Examiner Sarah Song at telephone number 703-306-5799. Any inquiry of a general or clerical nature, or relating to the status of this application or proceeding should be directed to the receptionist at telephone number 703-308-0956 or to the technical support staff supervisor at telephone number 703-308-3072.

  
sus

  
John D. Lee  
Primary Examiner